

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01362
Hon. David A. Faber

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

Civil Action No. 3:17-01665
Hon. David A. Faber

**DEFENDANTS' EXPEDITED MOTION TO
MODIFY EXPERT DISCOVERY DEADLINES**

On the evening of August 3, 2020, between 7 pm and 2 am, Plaintiffs served 20 expert reports totaling over 2,000 pages. This includes a number of reports from new experts who have not previously submitted reports in other opioid litigation, and new theories that have not previously been raised in other opioid litigation. Separately, the reliance materials for these reports totals over 100,000 pages—including over 83,000 pages of PDFs, and multiple spreadsheets of voluminous data—the download of which began immediately upon receipt, but is still in progress as of the time of this writing. Defendants cannot adequately respond to these expert reports in the 10 days afforded by the current schedule, and therefore respectfully submit

this expedited request for a small modification of the remaining deadlines relating to expert discovery, while maintaining the current overall case schedule (including the trial date).

Defendants' expert reports are currently due on August 13, 2020, and the deadline to complete expert witness depositions is September 15, 2020. *See* ECF No. 410, at 4. Prior to the service of Plaintiffs' expert reports, Defendants had expressed concern that the current time allotted for responsive expert reports was compressed to the point that Defendants would be unable to sufficiently respond to Plaintiffs' anticipated expert reports. *See* ECF No. 393 at 8 n.1.¹ The volume and breadth of the expert reports and supporting materials served by Plaintiffs overnight on Monday confirms that Defendants require more time to respond to these reports.

Accordingly, Defendants respectfully propose modest modification to two dates in the current schedule:

	Current Deadline	Proposed Deadline
Defendants' expert reports	August 13, 2020	August 27, 2020
Complete expert depositions	September 15, 2020	September 22, 2020

Defendants conferred with Plaintiffs prior to the filing of this motion, but Plaintiffs did not agree to the extension. In light of the fast-approaching existing deadline of August 13, 2020, Defendants respectfully request expedited treatment of this request.

¹ Defendants also repeatedly have expressed concern that additional time for their expert reports may be necessary in light of the challenges to completing fact discovery during the COVID-19 pandemic, including delays in obtaining crucial third-party discovery. *See, e.g.*, ECF No. 348 at 3 ("the compressed schedule set by the Court for expert discovery" may necessitate "further adjustments in the schedule" as the pandemic unfolds); ECF No. 733 at 2 ("It remains uncertain whether these delays in fact discovery will affect the completion of expert discovery," which is "already truncated"); ECF No. 810 at 2 ("Because of these delays in completing fact depositions, particularly of key third-party witnesses, Defendants anticipate that it may become necessary to submit supplemental or amended expert reports after the August 13 deadline.").

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court make the following adjustments to the pre-trial schedule:

1. Defendants' expert reports due by August 27, 2020
2. Expert witness depositions completed by September 22, 2020

Respectfully submitted,

Cardinal Health, Inc.

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 5th day of August, 2020, the foregoing **“Defendants’ Expedited Motion to Modify Expert Discovery Deadlines”** was served using the Court’s CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Steven R. Ruby
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